

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 481

Introduced by Assembly Member Tran

February 20, 2007

An act to amend Section ~~1167~~ 431.40 of, and to add Section 1167.1 to, the Code of Civil Procedure, relating to ~~unlawful detainer~~ *pleadings*.

LEGISLATIVE COUNSEL'S DIGEST

AB 481, as amended, Tran. ~~Unlawful detainer: pretrial prospective rent demand.~~ *Pleadings: unlawful detainer.*

Existing

(1) *Existing law provides that in any action in which the demand, exclusive of interest, or the value of the property in controversy does not exceed \$1,000, the defendant, in lieu of demurrer or other answer, may file a general written denial and a brief statement of any new matter constituting a defense.*

This bill would raise that threshold amount to \$2,500.

(2) *Existing law requires a plaintiff in a summary proceeding for the possession of real property, as specified, to include certain information in a verified complaint and provides for the court to issue a summons in this regard. Existing law generally requires a landlord to maintain residential housing in a manner fit for human occupation.*

The bill would require a defendant a summary proceeding, as described above, which involves residential premises after default in rent, who pleads the affirmative defense of a breach of specified landlord obligations, to describe the particular violation alleged, provide information regarding any notice of these violations that the defendant has given the landlord and other parties, and to state under penalty of

perjury that the past due rent at issue is available for immediate transmittal. By changing the definition of a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would permit a plaintiff in a summary proceeding for the possession of real property for failure to pay rent, at the discretion of the court, to make a demand for a pretrial prospective rent deposit when the complaint alleges unpaid rent. The bill would require the court to accept the deposit if the court permits the demand. The bill would require the demand to appear in the body of the complaint and in the summons issued in this connection.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 431.40 of the Code of Civil Procedure is*
 2 *amended to read:*
 3 431.40. (a) Any provision of law to the contrary
 4 notwithstanding, in any action in which the demand, exclusive of
 5 interest, or the value of the property in controversy does not exceed
 6 ~~one thousand two thousand five hundred dollars (\$1000)~~ (\$2,500),
 7 the defendant at his *or her* option, in lieu of demurrer or other
 8 answer, may file a general written denial and a brief statement of
 9 any new matter constituting a defense.
 10 (b) Nothing in this section excuses the defendant from
 11 complying with the provisions of law applicable to a
 12 cross-complaint, and any cross-complaint of the defendant shall
 13 be subject to the requirements applicable in any other action.
 14 (c) The general written denial described in subdivision (a) shall
 15 be on a blank available at the place of filing and shall be in a form
 16 prescribed by the Judicial Council. This form need not be verified.
 17 *SEC. 2. Section 1167.1 is added to the Code of Civil Procedure,*
 18 *to read:*

1 1167.1. In an unlawful detainer proceeding involving
2 residential premises after default in payment of rent, in pleading
3 the affirmative defense of a breach of the landlord's obligations
4 under Section 1941 of the Civil Code or of any warranty of
5 habitability, the defendant shall do all of the following:

6 (a) Describe with particularity each violation alleged.

7 (b) State whether notice of the alleged breach was provided
8 prior to the proceeding and, if so, whether that notice was written
9 or verbal, and any party to whom the notice was provided,
10 including the landlord or the landlord's agent and any public
11 officer or employee who is responsible for the enforcement of any
12 housing law.

13 (c) State the date on which prior notice described in subdivision
14 (b), if any, was provided, and attach a copy of the notice to the
15 pleading.

16 (d) Attach a declaration to the pleading stating under penalty
17 of perjury that the past due rent at issue in the proceeding is
18 available for immediate transmittal.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 SECTION 1. ~~Section 1167 of the Code of Civil Procedure is~~
29 ~~amended to read:~~

30 ~~1167. (a) The summons shall be in the form specified in~~
31 ~~Section 412.20 except that when the defendant is served, the~~
32 ~~defendant's response shall be filed within five days, including~~
33 ~~Saturdays and Sundays but excluding all other judicial holidays,~~
34 ~~after the complaint is served upon him or her. If the last day for~~
35 ~~filing the response falls on a Saturday or Sunday, the response~~
36 ~~period shall be extended to and including the next court day.~~

37 ~~(b) If a demand is made for a pretrial prospective rent deposit,~~
38 ~~this demand shall appear on the summons.~~

39 ~~(c) In all other respects the summons shall be issued and served~~
40 ~~and returned in the same manner as a summons in a civil action.~~

1 ~~SEC. 2. Section 1167.1 is added to the Code of Civil Procedure,~~
2 ~~to read:~~
3 ~~1167.1. (a) At the discretion of the court, in an action brought~~
4 ~~under subdivision 2 of Section 1161, the plaintiff may make a~~
5 ~~demand for a pretrial prospective rent deposit. If the court grants~~
6 ~~the plaintiff's demand, the court shall accept a pretrial prospective~~
7 ~~rent deposit when the complaint alleges unpaid rent.~~
8 ~~(b) The demand shall be made in the body of the unlawful~~
9 ~~detainer complaint, on the first page, under the case number. The~~
10 ~~demand shall also appear on the summons issued by the court.~~